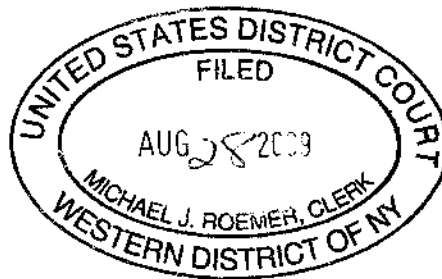


**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**



UNITED STATES OF AMERICA,

Plaintiff,

v.

DOCKET NO. 07-CR-291S

MARK SMITH,

Defendant.

REPORT AND RECOMMENDATION

By Order of Judge William M. Skretny dated August 17, 2009, the above case was referred to me, with the consent of the defendant, to take the defendant's plea of guilty and to conduct an allocution pursuant to Rule 11 of the Federal Rules of Criminal Procedure for a Report and Recommendation. The following is my Report and Recommendation as to the defendant's plea of guilty.

On August 28, 2009, the defendant entered a plea of guilty in this case, as set forth in the transcript of the plea proceeding, which is transmitted with this written Report and Recommendation. In accordance with my oral Report and Recommendation at the close of the plea proceeding, it is my Report and Recommendation that the defendant's plea of guilty accords with the requirements of

Rule 11 of the Fed. R. Crim. P. and that Your Honor adjudge the defendant guilty of the offense(s) to which the guilty plea was offered.

The time from August 28, 2009 until Judge Skretny rules on this Report and Recommendation is excluded from the Speedy Trial Act calendar pursuant to 18 U.S.C. §§ 3161(h)(1) and 3161(h)(1)(G).

SO ORDERED.

DATED: August 28, 2009
Buffalo, New York



H. KENNETH SCHROEDER, JR.
United States Magistrate Judge